

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

BRITTANY MCHENRY,

Plaintiff,

v.

FOX NEWS NETWORK, LLC; FOX
ENTERTAINMENT GROUP; NEWS
CORPORATION; FOX CORPORATION;
GEORGE MURDOCH (A/K/A “TYRUS”);
JENNIFER RAUCHET; JOHN FINLEY;
and MONICA MEKEEL,

Defendants.

Case No.: 1:19-cv-11294-PAE-DCF

**DEFENDANT FOX NEWS
NETWORK, LLC’S
ANSWER AND DEFENSES**

Defendant Fox News Network, LLC (“Fox News”), by and through undersigned counsel, hereby presents this Answer and Defenses (“Answer”) to the Complaint (“Complaint”) filed by Plaintiff Brittany McHenry (“Plaintiff” or “McHenry”). The headings contained in the Complaint are not substantive allegations to which an answer is required and to the extent the headings are repeated in the Answer, it is solely for ease of reference. To the extent those headings are substantive allegations to which an answer is required, Fox News denies the allegations.¹

I. AS TO “OVERVIEW”

1. Fox News denies the allegations in Paragraph 1 of the Complaint, except it admits that Fox News does not tolerate sexual harassment in the workplace. Answering further, Fox News avers that, since 2016, Fox News has reaffirmed its commitment to preventing and

¹ Defendants Fox Corporation, Jennifer Rauchet, John Finley and Monica Mekeel filed a motion to dismiss the Complaint and therefore are not responding the allegations in the Complaint.

eradicating sexual harassment in the workplace by instituting a state-of-the-art sexual harassment policy that obligates it to promptly, thoroughly, and sensitively investigate any allegations of sexual harassment, and to take prompt appropriate actions to address them. Averring further, upon learning of Plaintiff's sexual harassment complaints, Fox News carefully followed its sexual harassment policy, including adhering to internal protocols and taking prompt action. Specifically, Fox News avers that, upon hearing Plaintiff's complaint, Fox News:

- (a) immediately separated Plaintiff, a contract contributor, and the workplace peer of whom she complained, Defendant George Murdoch (a.k.a. "Tyrus"), also a contract contributor, and forbade them from contacting each other;
- (b) assigned Plaintiff a new co-host to replace Tyrus on their internet streaming show, *Un-PC*, thereby enabling Plaintiff to continue to co-host the same show she co-hosted prior to her complaint without interruption;
- (c) commissioned two separate independent outside investigations into Plaintiff's sexual harassment claims, and a third investigation into her retaliation claims – all three of which concluded that Plaintiff's claims were meritless;
- (d) followed the outside investigator's recommendation to (i) issue a warning to Tyrus regarding the use of inappropriate workplace language, and (ii) mandate that both Tyrus and Plaintiff attend one-on-one remedial training on the use of inappropriate workplace language, which they reciprocally and consensually used with each other; and
- (e) notified Plaintiff upon the completion of all three investigations that the investigations had found her harassment and retaliation claims to be meritless, and that Fox News would close the matter.

Answering further, Fox News strictly prohibits retaliation of any kind, and denies that Plaintiff has been subject to any retaliation whatsoever. Fox News avers that, since making her complaints, Plaintiff's working conditions continue unchanged in all material respects:

- (a) her compensation, duties, position, and title have all remained the same, as she continues in her same role, co-hosting her same internet streaming show, *Un-PC*;
- (b) she continues to appear and to receive opportunities to appear on other Fox programs; and
- (c) she continues to attend and to receive opportunities to attend industry events, including invitations to attend the White House Correspondents Dinner a few days after her April 2019 complaint and to attend the Fox Nation Patriot Awards in November 2019, among other opportunities.

2. Fox News denies the allegations in Paragraph 2 of the Complaint.

3. Fox News denies the allegations in Paragraph 3 of the Complaint.

II. AS TO "THE PARTIES"

4. Fox News admits that its records reflect that Plaintiff resides in Arlington, Virginia and denies any remaining allegations in Paragraph 4 of the Complaint.

5. Fox News admits that Defendant Fox Corporation ("Fox Corp.") is incorporated in the State of Delaware. The allegation that Fox Corp.'s principal place of business is in New York City is a legal conclusion to which no response is required. To the extent a response is required, Fox News denies that allegation and the remaining allegations in Paragraph 5 of the Complaint.

6. Fox News admits that it is incorporated in the State of Delaware. The allegation that its principal place of business is in New York City is a legal conclusion to which no

response is required. Fox News denies the remaining allegations in Paragraph 6 of the Complaint.

7. Fox News lacks information or knowledge sufficient to admit or deny the allegations in Paragraph 7 of the Complaint and therefore denies them. Answering further, Fox News avers that the Court dismissed Defendant Fox Entertainment Group (“Fox Entertainment Group”) from the instant litigation.

8. Fox News lacks information or knowledge sufficient to admit or deny the allegations in Paragraph 8 of the Complaint and therefore denies them. Answering further, Fox News avers that the Court dismissed Defendant News Corporation (“News Corp.”) from the instant litigation.

9. Paragraph 9 of the Complaint does not set forth any allegations to which a response is required. To the extent a response is required, Fox News admits that Plaintiff purports to refer to Fox Corp., Fox News, Fox Entertainment Group, and News Corp. collectively in the Complaint and denies any remaining allegations in Paragraph 9. Answering further, Fox News avers that the Court dismissed Fox Entertainment Group and News Corp. from the instant litigation. For purposes of this Answer, Fox News is defined as Fox News Network, LLC and does not refer to Fox Corp., Fox Entertainment Group, or News Corp.

10. Fox News admits that its records reflect that the individual defendant referenced in Paragraph 10 of the Complaint resides in Louisiana and admits the remaining allegations in Paragraph 10.

11. Fox News admits that its records reflect that the individual defendant referenced in Paragraph 11 of the Complaint resides in New York. Fox News admits that she has worked at Fox News since 2006 and denies the remaining allegations in Paragraph 11.

12. Fox News admits that its records reflect that the individual defendant referenced in Paragraph 12 of the Complaint resides in New York. Fox News admits that he has worked at Fox News since 2000 and denies the remaining allegations in Paragraph 12.

13. Fox News admits that its records reflect that the individual defendant referenced in Paragraph 13 of the Complaint resides in New York. Fox News admits that she has worked at Fox News since February 2017 and denies the remaining allegations in Paragraph 13.

III. AS TO “JURISDICTION AND VENUE”

14. The allegations in Paragraph 14 of the Complaint state legal conclusions to which no response is required. To the extent a response is required, Fox News admits that the parties are diverse and that Plaintiff purports to claim at least \$75,000. Fox News denies that Plaintiff is entitled to \$75,000 and denies the remaining allegations in Paragraph 14.

15. The allegations in Paragraph 15 of the Complaint state legal conclusions to which no response is required. To the extent a response is required, Fox News admits that it has a location and transacts business in New York. Fox News lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 15 and therefore denies them.

16. The allegations in Paragraph 16 of the Complaint state legal conclusions to which no response is required. To the extent a response is required, Fox News denies that it committed tortious acts causing injury to Plaintiff in New York State and lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 16 and therefore denies them.

17. The allegations in Paragraph 17 of the Complaint state legal conclusions to which no response is required. To the extent a response is required, Fox News admits that it maintains a place of business located at the address stated in Paragraph 17 and lacks knowledge or

information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 17 and therefore denies them.

IV. AS TO “FACTUAL ALLEGATIONS”

**AS TO “FOX NEWS’ CULTURE OF MISOGYNY ABUSES,
HARASSES, SILENCES, AND DESTROYS THE CAREERS OF WOMEN”**

18. Fox News admits that Plaintiff purports to base the allegations in Paragraphs 18 through 60 of the Complaint on media reports. The media reports and any documents or statements referenced therein speak for themselves. Fox News denies that the media reports or any allegations in Paragraphs 18 through 60 have any relevance to Plaintiff’s claims. Fox News denies any remaining allegations in Paragraph 18.

19. Fox News admits that Plaintiff purports to base the allegations in Paragraph 19 of the Complaint on media reports. The media reports and any documents or statements referenced therein speak for themselves. Fox News denies that the media reports or any allegations in Paragraph 19 have any relevance to Plaintiff’s claims. Fox News denies any remaining allegations in Paragraph 19.

20. Fox News admits that Plaintiff purports to base the allegations in Paragraph 20 of the Complaint on media reports. The media reports and any documents or statements referenced therein speak for themselves. Fox News denies that the media reports or any allegations in Paragraph 20 have any relevance to Plaintiff’s claims. Fox News denies any remaining allegations in Paragraph 20.

21. Fox News admits that Plaintiff purports to base the allegations in Paragraph 21 of the Complaint on media reports. The media reports and any documents or statements referenced therein speak for themselves. Fox News denies that the media reports or any allegations in

Paragraph 21 have any relevance to Plaintiff's claims. Fox News denies any remaining allegations in Paragraph 21.

22. Fox News admits that Plaintiff purports to base the allegations in Paragraph 22 of the Complaint on media reports. The media reports and any documents or statements referenced therein speak for themselves. Fox News denies that the media reports or any allegations in Paragraph 22 have any relevance to Plaintiff's claims. Fox News denies any remaining allegations in Paragraph 22.

23. Fox News admits that Plaintiff purports to base the allegations in Paragraph 23 of the Complaint on media reports. The media reports and any documents or statements referenced therein speak for themselves. Fox News denies that the media reports or any allegations in Paragraph 23 have any relevance to Plaintiff's claims. Fox News denies any remaining allegations in Paragraph 23.

24. Fox News admits that Plaintiff purports to base the allegations in Paragraph 24 of the Complaint on media reports. The media reports and any documents or statements referenced therein speak for themselves. Fox News denies that the media reports or any allegations in Paragraph 24 have any relevance to Plaintiff's claims. Fox News denies any remaining allegations in Paragraph 24.

25. Fox News admits that Plaintiff purports to base the allegations in Paragraph 25 of the Complaint on media reports. The media reports and any documents or statements referenced therein speak for themselves. Fox News denies that the media reports or any allegations in Paragraph 25 have any relevance to Plaintiff's claims. Fox News denies any remaining allegations in Paragraph 25.

26. Fox News admits that Plaintiff purports to base the allegations in Paragraph 26 of the Complaint on media reports. The media reports and any documents or statements referenced therein speak for themselves. Fox News denies that the media reports or any allegations in Paragraph 26 have any relevance to Plaintiff's claims. Fox News denies any remaining allegations in Paragraph 26.

27. Fox News admits that Plaintiff purports to base the allegations in Paragraph 27 of the Complaint on media reports. The media reports and any documents or statements referenced therein speak for themselves. Fox News denies that the media reports or any allegations in Paragraph 27 have any relevance to Plaintiff's claims. Fox News denies any remaining allegations in Paragraph 27.

28. Fox News admits that Plaintiff purports to base the allegations in Paragraph 28 of the Complaint on media reports. The media reports and any documents or statements referenced therein speak for themselves. Fox News denies that the media reports or any allegations in Paragraph 28 have any relevance to Plaintiff's claims. Fox News denies any remaining allegations in Paragraph 28.

29. Fox News admits that Plaintiff purports to base the allegations in Paragraph 29 of the Complaint on media reports. The media reports and any documents or statements referenced therein speak for themselves. Fox News denies that the media reports or any allegations in Paragraph 29 have any relevance to Plaintiff's claims. Fox News denies any remaining allegations in Paragraph 29.

30. Fox News admits that Plaintiff purports to base the allegations in Paragraph 30 of the Complaint on media reports. The media reports and any documents or statements referenced therein speak for themselves. Fox News denies that the media reports or any allegations in

Paragraph 30 have any relevance to Plaintiff's claims. Fox News denies any remaining allegations in Paragraph 30.

31. Fox News admits that Plaintiff purports to base the allegations in Paragraph 31 of the Complaint on media reports. The media reports and any documents or statements referenced therein speak for themselves. Fox News denies that the media reports or any allegations in Paragraph 31 have any relevance to Plaintiff's claims. Fox News denies any remaining allegations in Paragraph 31.

32. Fox News admits that Plaintiff purports to base the allegations in Paragraph 32 of the Complaint on media reports. The media reports and any documents or statements referenced therein speak for themselves. Fox News denies that the media reports or any allegations in Paragraph 32 have any relevance to Plaintiff's claims. Fox News denies any remaining allegations in Paragraph 32.

33. Fox News admits that Plaintiff purports to base the allegations in Paragraph 33 of the Complaint on media reports. The media reports and any documents or statements referenced therein speak for themselves. Fox News denies that the media reports or any allegations in Paragraph 33 have any relevance to Plaintiff's claims. Fox News denies any remaining allegations in Paragraph 33.

34. Fox News admits that Plaintiff purports to base the allegations in Paragraph 34 of the Complaint on media reports. The media reports and any documents or statements referenced therein speak for themselves. Fox News denies that the media reports or any allegations in Paragraph 34 have any relevance to Plaintiff's claims. Fox News denies any remaining allegations in Paragraph 34.

35. Fox News admits that Plaintiff purports to base the allegations in Paragraph 35 of the Complaint on media reports. The media reports and any documents or statements referenced therein speak for themselves. Fox News denies that the media reports or any allegations in Paragraph 35 have any relevance to Plaintiff's claims. Fox News denies any remaining allegations in Paragraph 35.

36. Fox News admits that Plaintiff purports to base the allegations in Paragraph 36 of the Complaint on media reports. The media reports and any documents or statements referenced therein speak for themselves. Fox News denies that the media reports or any allegations in Paragraph 36 have any relevance to Plaintiff's claims. Fox News denies any remaining allegations in Paragraph 36.

37. Fox News admits that Plaintiff purports to base the allegations in Paragraph 37 of the Complaint on media reports. The media reports and any documents or statements referenced therein speak for themselves. Fox News denies that the media reports or any allegations in Paragraph 37 have any relevance to Plaintiff's claims. Fox News denies any remaining allegations in Paragraph 37.

38. Fox News admits that Plaintiff purports to base the allegations in Paragraph 38 of the Complaint on media reports. The media reports and any documents or statements referenced therein speak for themselves. Fox News denies that the media reports or any allegations in Paragraph 38 have any relevance to Plaintiff's claims. Fox News denies any remaining allegations in Paragraph 38.

39. Fox News admits that Plaintiff purports to base the allegations in Paragraph 39 of the Complaint on media reports. The media reports and any documents or statements referenced therein speak for themselves. Fox News denies that the media reports or any allegations in

Paragraph 39 have any relevance to Plaintiff's claims. Fox News denies any remaining allegations in Paragraph 39.

40. Fox News admits that Plaintiff purports to base the allegations in Paragraph 40 of the Complaint on media reports. The media reports and any documents or statements referenced therein speak for themselves. Fox News denies that the media reports or any allegations in Paragraph 40 have any relevance to Plaintiff's claims. Fox News denies any remaining allegations in Paragraph 40.

41. Fox News admits that Plaintiff purports to base the allegations in Paragraph 41 of the Complaint on media reports. The media reports and any documents or statements referenced therein speak for themselves. Fox News denies that the media reports or any allegations in Paragraph 41 have any relevance to Plaintiff's claims. Fox News denies any remaining allegations in Paragraph 41.

42. Fox News admits that Plaintiff purports to base the allegations in Paragraph 42 of the Complaint on media reports. The media reports and any documents or statements referenced therein speak for themselves. Fox News denies that the media reports or any allegations in Paragraph 42 have any relevance to Plaintiff's claims. Fox News denies any remaining allegations in Paragraph 42.

43. Fox News admits that Plaintiff purports to base the allegations in Paragraph 43 of the Complaint on media reports. The media reports and any documents or statements referenced therein speak for themselves. Fox News denies that the media reports or any allegations in Paragraph 43 have any relevance to Plaintiff's claims. Fox News denies any remaining allegations in Paragraph 43.

44. Fox News admits that Plaintiff purports to base the allegations in Paragraph 44 of the Complaint on media reports. The media reports and any documents or statements referenced therein speak for themselves. Fox News denies that the media reports or any allegations in Paragraph 44 have any relevance to Plaintiff's claims. Fox News denies any remaining allegations in Paragraph 44.

45. Fox News admits that Plaintiff purports to base the allegations in Paragraph 45 of the Complaint on media reports. The media reports and any documents or statements referenced therein speak for themselves. Fox News denies that the media reports or any allegations in Paragraph 45 have any relevance to Plaintiff's claims. Fox News denies any remaining allegations in Paragraph 45.

46. Fox News admits that Plaintiff purports to base the allegations in Paragraph 46 of the Complaint on media reports. The media reports and any documents or statements referenced therein speak for themselves. Fox News denies that the media reports or any allegations in Paragraph 46 have any relevance to Plaintiff's claims. Fox News denies any remaining allegations in Paragraph 46.

47. Fox News admits that Plaintiff purports to base certain allegations in Paragraph 47 of the Complaint on media reports. The media reports and any documents or statements referenced therein speak for themselves. Fox News denies that the media reports or any allegations in Paragraph 47 have any relevance to Plaintiff's claims. Fox News denies the remaining allegations in Paragraph 47.

48. Fox News admits that Plaintiff purports to base the allegations in Paragraph 48 of the Complaint on media reports. The media reports and any documents or statements referenced therein speak for themselves. Fox News denies that the media reports or any allegations in

Paragraph 48 have any relevance to Plaintiff's claims. Fox News denies any remaining allegations in Paragraph 48.

49. Fox News admits that Plaintiff purports to base the allegations in Paragraph 49 of the Complaint on media reports. The media reports and any documents or statements referenced therein speak for themselves. Fox News denies that the media reports or any allegations in Paragraph 49 have any relevance to Plaintiff's claims. Fox News denies any remaining allegations in Paragraph 49.

50. Fox News admits that Plaintiff purports to base the allegations in Paragraph 50 of the Complaint on media reports. The media reports and any documents or statements referenced therein speak for themselves. Fox News denies that the media reports or any allegations in Paragraph 50 have any relevance to Plaintiff's claims. Fox News denies any remaining allegations in Paragraph 50.

51. Fox News admits that Plaintiff purports to base the allegations in Paragraph 51 of the Complaint on media reports. The media reports and any documents or statements referenced therein speak for themselves. Fox News denies that the media reports or any allegations in Paragraph 51 have any relevance to Plaintiff's claims. Fox News denies any remaining allegations in Paragraph 51.

52. Fox News admits that Plaintiff purports to base the allegations in Paragraph 52 of the Complaint on media reports. The media reports and any documents or statements referenced therein speak for themselves. Fox News denies that the media reports or any allegations in Paragraph 52 have any relevance to Plaintiff's claims. Fox News denies any remaining allegations in Paragraph 52.

53. Fox News admits that Plaintiff purports to base the allegations in Paragraph 53 of the Complaint on media reports. The media reports and any documents or statements referenced therein speak for themselves. Fox News denies that the media reports or any allegations in Paragraph 53 have any relevance to Plaintiff's claims. Fox News denies any remaining allegations in Paragraph 53.

54. Fox News admits that Plaintiff purports to base the allegations in Paragraph 54 of the Complaint on media reports. The media reports and any documents or statements referenced therein speak for themselves. Fox News denies that the media reports or any allegations in Paragraph 54 have any relevance to Plaintiff's claims. Fox News denies any remaining allegations in Paragraph 54.

55. Fox News admits that Plaintiff purports to base the allegations in Paragraph 55 of the Complaint on media reports. The media reports and any documents or statements referenced therein speak for themselves. Fox News denies that the media reports or any allegations in Paragraph 55 have any relevance to Plaintiff's claims. Fox News denies any remaining allegations in Paragraph 55.

56. Fox News admits that Plaintiff purports to base the allegations in Paragraph 56 of the Complaint on media reports. The media reports and any documents or statements referenced therein speak for themselves. Fox News denies that the media reports or any allegations in Paragraph 56 have any relevance to Plaintiff's claims. Fox News denies any remaining allegations in Paragraph 56.

57. Fox News admits that Plaintiff purports to base the allegations in Paragraph 57 of the Complaint on media reports. The media reports and any documents or statements referenced therein speak for themselves. Fox News denies that the media reports or any allegations in

Paragraph 57 have any relevance to Plaintiff's claims. Fox News denies any remaining allegations in Paragraph 57.

58. Fox News admits that Plaintiff purports to base the allegations in Paragraph 58 of the Complaint on media reports. The media reports and any documents or statements referenced therein speak for themselves. Fox News denies that the media reports or any allegations in Paragraph 58 have any relevance to Plaintiff's claims. Fox News denies any remaining allegations in Paragraph 58.

59. Fox News admits that Plaintiff purports to base the allegations in Paragraph 59 of the Complaint on media reports. The media reports and any documents or statements referenced therein speak for themselves. Fox News denies that the media reports or any allegations in Paragraph 59 have any relevance to Plaintiff's claims. Fox News denies the remaining allegations in Paragraph 59.

60. Fox News denies the allegations in Paragraph 60 of the Complaint.

**AS TO "MS. MCHENRY'S PROFESSIONAL BACKGROUND AND SUCCESSFUL
CAREER HISTORY CATCHES THE ATTENTION OF FOX NEWS"**

61. Fox News lacks knowledge or information sufficient to admit or deny the allegations in Paragraph 61 of the Complaint.

62. Fox News lacks knowledge or information sufficient to admit or deny the allegations in Paragraph 62 of the Complaint.

63. Fox News admits that Plaintiff first appeared on Fox News Channel in August 2017 and that she has since occasionally appeared on Fox News Channel programs. Fox News denies the remaining allegations in Paragraph 63 of the Complaint.

64. Fox News lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 64 of the Complaint.

65. Fox News admits that on or about July 18, 2018, Fox News contracted with Plaintiff as a contributor to co-host *Un-PC*, a 20-30 minute weekly program on Fox Nation, an internet-only, digital streaming service. Fox News further admits that in or around July 2018 Fox News invited its contractor and contributor, Tyrus, to also co-host *Un-PC*. Fox News lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 65 of the Complaint regarding Plaintiff's or Tyrus' roles outside of Fox News. Fox News denies the remaining allegations in Paragraph 65.

AS TO "[TYRUS] SEXUALLY HARASSES MS. MCHENRY"

66. Fox News admits that Plaintiff and Tyrus met in August 2018 at a dinner they attended with Fox News employees and that beginning in or around September 2018, Plaintiff and Tyrus attended rehearsals for *Un-PC* in New York each week. Fox News lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 66 of the Complaint and therefore denies them.

67. Fox News lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 67 of the Complaint and therefore denies them.

68. Fox News lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 68 of the Complaint and therefore denies them.

69. Fox News lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 69 of the Complaint and therefore denies them.

70. Fox News denies the allegations in Paragraph 70 of the Complaint, except admits that Tyrus declined to participate in a group photo at the Fox Nation Summit in 2018.

71. Fox News lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 71 of the Complaint and therefore denies them.

72. Fox News denies the allegations in Paragraph 72 of the Complaint. Fox News avers that two independent investigations into Plaintiff's sexual harassment allegations, which included a review of a log of over 5,000 text messages Plaintiff exchanged with Tyrus ("text log")² and a phone call log showing more than forty hours of telephone conversations between Plaintiff and Tyrus ("call log"), concluded that both Plaintiff and Tyrus mutually and consensually sent each other inappropriate text messages but that no sexual harassment occurred. Fox News denies any remaining allegations in Paragraph 72.

73. Fox News denies that Plaintiff completely and accurately characterizes the text message conversation between Plaintiff and Tyrus as reflected in the text log Plaintiff created. Fox News admits that Plaintiff's text log indicates that on October 31, 2018, Plaintiff texted Tyrus a photo of herself and asked Tyrus for feedback on how she looked because, she explained, her ex-boyfriend "told me when he broke up with me that I don't look good in my pics I post." Fox News further admits that Plaintiff's text log indicates that Tyrus responded by sending Plaintiff the text alleged in Paragraph 73 of the Complaint. Fox News denies any remaining allegations in Paragraph 73.

74. Fox News denies that Plaintiff completely and accurately characterizes the text message conversation between Plaintiff and Tyrus as reflected in the text log Plaintiff created. Fox News admits that Plaintiff's text log indicates that on November 2, 2018, Plaintiff texted Tyrus a photo of herself that she previously posted on social media that was receiving negative

² Plaintiff prepared and submitted to an investigator a summary purporting to contain the content of 5,156 text messages she exchanged with Tyrus ("text log"). Fox News has not authenticated or verified the accuracy or completeness of the text log provided by Plaintiff. For example, the text log likely would not capture text messages that were previously deleted. However, for purposes of responding to the Complaint, Fox News assumes that the messages contained within the text log are accurate depictions of text messages Plaintiff exchanged with Tyrus, and reserves its right to amend its Answer if discovery reveals that the text messages contained in the text log are inaccurate or incomplete.

comments concerning her legs and said, “People are so fucked up. I’m double jointed and was a competitive soccer player so my quads (as in most women) developed more). Obviously I can’t control my fucking joints.” Fox News admits that Plaintiff’s text log indicates that Tyrus responded by sending Plaintiff the texts quoted in Paragraph 74 of the Complaint. Fox News denies any remaining allegations in Paragraph 74.

75. Fox News denies that Plaintiff completely and accurately characterizes the text message conversation between Plaintiff and Tyrus as reflected in the text log Plaintiff created. Fox News admits that Plaintiff’s text log indicates that Tyrus sent her the text messages alleged in Paragraph 75 of the Complaint on November 5, 2018. Fox News avers that, according to Plaintiff’s text log, as well as Plaintiff’s own admission to both investigators, Tyrus never sent Plaintiff a photo of his or anyone else’s genitalia; that immediately after the text messages alleged in Paragraph 75, Tyrus texted Plaintiff a photo of an individual who they both disliked; and that Plaintiff and Tyrus exchanged over 175 messages and a 30-minute phone call the evening of the texts cited in Paragraph 75. Fox News denies any remaining allegations in Paragraph 75.

76. Fox News admits that its independent investigations into Plaintiff’s claims concluded that Plaintiff and Tyrus initially had an “inordinately close” personal relationship, “[t]hey went from being total strangers to close friends in the snap of a finger,” and “shared personal, and often intimate information about their lives” with one another. Fox News denies the remaining allegations in Paragraph 76 of the Complaint. Fox News further avers that both independent investigations concluded that both Plaintiff and Tyrus were mutually and consensually inappropriate with each other. As the second investigation report concluded: “The review of text messages shows that they did indeed have many personal conversations about

their relationships and families. There were also countless examples of innuendo, comments of a sexual nature, and vulgar or potentially offensive language made by both parties. Neither appeared to be offended by crude language or topics.”

77. Fox News admits that its independent investigation concluded that Plaintiff and Tyrus went to dinner together at a restaurant in Times Square on November 6, 2018 and that Tyrus drank alcohol at the dinner. Fox News lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 77 of the Complaint and therefore denies them. Answering further, Fox News avers that, as reflected in the text log Plaintiff created, Plaintiff within 24 hours of the events alleged in Paragraph 77 sent Tyrus dozens of text messages, including, “Tyrus I don’t want my own show. I want to be with you! . . .,” “Stop! You could never annoy me,” and “Miss ya today.” Two days after the events alleged in Paragraph 77, Plaintiff and Tyrus appear to have met up again and Plaintiff thereafter texted Tyrus, “Had so much fun too. Always do . . .” And, four days after the events alleged in Paragraph 77, Plaintiff invited Tyrus to accompany her on an international trip to Montreal for New Year’s Eve.

78. Fox News denies the allegations in Paragraph 78 of the Complaint.

79. Fox News denies that Plaintiff completely and accurately characterizes the text message conversation between Plaintiff and Tyrus as reflected in the text log Plaintiff created. Fox News admits that Plaintiff’s text log indicates that on November 17, 2018, Plaintiff texted Tyrus, “Do you like this pic of me or no?” and sent him a photo of herself. Fox News further admits that Plaintiff’s text log indicates that Tyrus responded by sending Plaintiff the text message alleged in Paragraph 79 of the Complaint. Fox News denies any remaining allegations in Paragraph 79.

80. Fox News denies that Plaintiff completely and accurately characterizes the text message conversation between Plaintiff and Tyrus as reflected in the text log Plaintiff created. Fox News admits that Plaintiff's text log indicates that Tyrus sent her the text quoted in Paragraph 80 of the Complaint. Answering further, Fox News avers that during the remainder of the day after the text message alleged in Paragraph 80, Plaintiff and Tyrus exchanged 62 additional messages; including two minutes after the text message alleged in Paragraph 80, Plaintiff texted Tyrus, "Working is one of the few things that keeps me really happy lately. Well that and kicking it with you and fox and a remote handful of other people. Like one. Lol. My friend []," and ten minutes later Plaintiff texted, "I don't know what I'd do without you, seriously." Fox News denies any remaining allegations in Paragraph 80.

81. Fox News denies that Plaintiff completely and accurately characterizes the text message conversation between Plaintiff and Tyrus as reflected in the text log Plaintiff created. Fox News admits that Plaintiff's text log indicates that Tyrus texted Plaintiff the message quoted in Paragraph 81 of the Complaint. Fox News denies the remaining allegations in Paragraph 81. Answering further, Fox News avers that, according to Plaintiff's text log as well as Plaintiff's own admission to both investigators, Tyrus never sent Plaintiff a photo of his or anyone else's genitalia.

82. Fox News admits that Plaintiff and Tyrus were in New York for separate tapings for New Year's Eve. Fox News lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 82 of the Complaint and therefore denies them.

AS TO "FOX NEWS IGNORES MS. MCHENRY'S SEXUAL HARASSMENT REPORT"

83. Fox News denies the allegations in Paragraph 83 of the Complaint. Answering further, Fox News states that the second investigation into Plaintiff's claims concluded that

Plaintiff had not complained about any sexual harassment, sex discrimination, or sexual impropriety during the January 2019 meeting alleged in Paragraph 83 and that Plaintiff's first sexual harassment complaint was not reported until after April 12, 2019.

84. Fox News admits that Plaintiff complained in February 2019 regarding statements Tyrus made during a taping of *Un-PC*, but denies that Plaintiff complained about sexual harassment at that time. Answering further, Fox News states that the second investigation into Plaintiff's claims concluded that Plaintiff had not complained about any sexual harassment, sex discrimination, or sexual impropriety during the February 2019 meeting alleged in Paragraph 84 of the Complaint and that Plaintiff's first sexual harassment complaint was not reported until after April 12, 2019. Fox News alleges that Tyrus' on-air statements to Plaintiff speak for themselves, and denies the remaining allegations in Paragraph 84.

85. Fox News lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 85 of the Complaint regarding whether Tyrus and Plaintiff spoke with each other, what they may have said, or the manner in which they may have spoken, and therefore denies them. Fox News denies the remaining allegations in Paragraph 85.

86. Fox News admits that Tyrus and Plaintiff got into a dispute on April 12, 2019 due to Tyrus' frustration with Plaintiff's lack of preparation for a taping of *Un-PC*. Fox News states that after the show, Tyrus complained to management about Plaintiff's continued lack of preparation for the show. Fox News further admits that after speaking with Tyrus, management spoke with Plaintiff and that they discussed Plaintiff's lack of preparation for the show. Fox News denies the remaining allegations in Paragraph 86 of the Complaint. Answering further, Fox News states that the second investigation into Plaintiff's claims concluded that Plaintiff had not complained about any sexual harassment, sex discrimination, or sexual impropriety during

the April 12, 2019 meeting alleged in Paragraph 86 and that Plaintiff's first sexual harassment complaint was not reported until after April 12, 2019.

87. Fox News denies that Plaintiff accurately characterizes the e-mail alleged in Paragraph 87 of the Complaint, which speaks for itself, and denies the remaining allegations in Paragraph 87. Answering further, Fox News avers that the e-mail alleged in Paragraph 87 makes no mention of sexual harassment or any other sex-based complaint.

**AS TO "FOX NEWS PUNISHES MS. MCHENRY IN RETALIATION
FOR HER SEXUAL HARASSMENT COMPLAINTS
AND REWARDS [TYRUS] FOR CONTINUING
THE FOX LEGACY OF MISOGYNY AND HARASSMENT"**

88. Fox News admits that the Human Resources representative referenced in Paragraph 88 of the Complaint contacted Plaintiff on April 17, 2019 to investigate Plaintiff's allegations and that Plaintiff sent her screenshots of some of Plaintiff and Tyrus' text message conversations. Fox News further admits that as part of her investigation, the Human Resources representative asked for copies of all communications between Plaintiff and Tyrus. Fox News denies the remaining allegations in Paragraph 88.

89. Fox News admits the allegations in Paragraph 89 of the Complaint, except denies that Tyrus' assignment to host a new show, which had been in development since January or February 2019, constituted a promotion. Answering further, Fox News avers that after April 2019, Tyrus continued to make appearances on the Fox News Channel programs alleged in Paragraph 89, as he had since 2016.

90. Fox News admits that both of the independent investigations into Plaintiff's allegations concluded that Plaintiff was not sexually harassed, but rather concluded that she and Tyrus had an inordinately close relationship that led to mutually and consensually inappropriate communications. Fox News denies the remaining allegations in Paragraph 90 of the Complaint.

91. Fox News lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 91 of the Complaint concerning Tyrus' and its employee's off-duty actions and therefore denies them. Fox News denies the remaining allegations in Paragraph 91.

92. Fox News denies the allegations in Paragraph 92 of the Complaint.

93. Fox News denies the allegations in Paragraph 93 of the Complaint, except admits that Tyrus continued to appear on Fox News Channel with roughly the same frequency before and after Plaintiff's complaint.

94. Fox News admits that, through Plaintiff's then attorney, Michael Willemin of the Wigdor Law Firm, Plaintiff was asked to undergo a one-on-one training on the use of inappropriate workplace language, as recommended by the outside investigation into her first complaint, which found that she and Tyrus had mutually and consensually used inappropriate and crude language with each other. Fox News admits that Plaintiff and her attorney were the only invitees at this training session, but avers that Tyrus was also required to attend a separate, one-on-one training session. Fox News denies the remaining allegations in Paragraph 94 of the Complaint.

95. Fox News denies the allegations in Paragraph 95 of the Complaint.

96. Fox News denies the allegations in Paragraph 96 of the Complaint.

97. Fox News denies the allegations in Paragraph 97 of the Complaint.

98. Fox News admits that Plaintiff has appeared on Fox News Channel programs on seven occasions since April 2019. Fox News denies that Plaintiff's complaint has affected the number or frequency of her appearances on Fox News Channel programs and denies that she has been offered fewer appearances because of her complaint and therefore denies the remaining

allegations in Paragraph 98 of the Complaint. Answering further, Fox News avers that the number of Plaintiff's Fox News Channel appearances during the seven months preceding her complaint is virtually identical to the number of appearances she made in the seven months after her April 2019 complaint, and that the number of Plaintiff's Fox Business Network appearances increased after April 2019.

99. Fox News denies the allegations in Paragraph 99 of the Complaint.

**AS TO "FOX NEWS' SHAM INVESTIGATIONS
AND FRAUDULENTLY DOCTORED PHOTOS OF MS. MCHENRY"**

100. Fox News admits that after Plaintiff first claimed that she had been sexually harassed, it promptly hired an independent investigator to investigate her allegations. Fox News denies the remaining allegations in Paragraph 100 of the Complaint.

101. Fox News admits that it retained DLA Piper LLP in April 2019 to conduct an independent investigation into Plaintiff's sexual harassment allegations. Fox News further admits that DLA Piper's investigation concluded that Plaintiff had not been sexually harassed and that Plaintiff and Tyrus mutually and consensually used crude language that was inappropriate for the workplace with each other. Fox News denies that DLA Piper was ever hired or asked to negotiate the departure of Plaintiff, and avers that Plaintiff's prior attorney approached DLA Piper about negotiating her departure, an offer to which Fox News never responded. Fox News denies the remaining allegations in Paragraph 101 of the Complaint.

102. Fox News admits that after it completed its investigation into Plaintiff's claims, Plaintiff came forward more than three months later with additional allegations of sexual harassment that purportedly occurred during the same September 2018 to April 2019 time period of her first complaint. When Fox News informed Plaintiff that they needed to investigate her new allegations, Plaintiff objected to DLA Piper conducting the investigation. At Plaintiff's

request, Fox News retained a second investigator, Employment Practices Group, LLC (“EPG”), an organization that specializes in conducting internal investigations, to conduct a second independent investigation into Plaintiff’s allegations. Fox News denies the remaining allegations in Paragraph 102 of the Complaint.

103. Fox News admits that Plaintiff was interviewed by EPG on September 12, 2019 and that her new attorney, who is counsel of record in the instant case, was permitted to, and did, attend the interview. Fox News further admits that EPG did not investigate Plaintiff’s retaliation claims and told her that it was not investigating her retaliation claims. Answering further, Fox News states that it conducted an internal investigation of Plaintiff’s retaliation claims, which concluded that no retaliation had occurred, and advised Plaintiff of that conclusion. Fox News denies the remaining allegations in Paragraph 103 of the Complaint.

104. Fox News admits that the second investigation concluded that Plaintiff had not been sexually harassed and that Fox News conducted a third investigation into Plaintiff’s retaliation claims, which concluded that her retaliation claims were meritless. Fox News admits that it advised Plaintiff of the findings of each of the three investigations into her claims. Fox News denies the remaining allegations in Paragraph 104 of the Complaint.

105. Fox News admits that its counsel provided copies of text messages that Fox News obtained during its investigation to Plaintiff’s counsel for the purpose of determining their authenticity. Fox News denies that these text messages were critical to the investigators’ findings, denies the characterization of communications between counsel described in Paragraph 105 of the Complaint, and denies any remaining allegations in Paragraph 105.

106. The allegations in Paragraph 106 of the Complaint purport to characterize alleged text messages and photos, which speak for themselves. Fox News denies that Plaintiff accurately

characterizes the text messages and photos, lacks knowledge or information sufficient to form a belief as to the truth of whether the text messages and photos are fraudulent, doctored, or accurate representations of Plaintiff, and denies the remaining allegations in Paragraph 106.

107. Fox News denies that Plaintiff's professional reputation was harmed in any manner whatsoever and further denies that any of its purported conduct harmed Plaintiff's professional reputation. Fox News lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 107 of the Complaint and therefore denies them.

108. Fox News admits that Plaintiff agreed undergo a forensic examination of her cell phone regarding the authenticity of the text messages alleged in Paragraphs 105 through 107 on the condition that Tyrus also undergo a forensic examination of his cell phone as well. Fox News lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 108 of the Complaint and therefore denies them.

109. Fox News denies the allegations in Paragraph 109 of the Complaint. Answering further, Fox News avers that its counsel informed Plaintiff's counsel that Tyrus had not provided copies of the purported text messages to Fox News, but that a third party witness had provided them directly to EPG. Fox News further states that neither independent investigation relied upon these text messages as a basis for its findings that Plaintiff had not been sexually harassed. Rather, both investigations concluded that Plaintiff had not been sexually harassed based on the record of over 5,000 text messages and hours of phone calls between Plaintiff and Tyrus.

V. AS TO "DAMAGES"

110. Fox News denies the allegations in Paragraph 110 of the Complaint.

111. Fox News denies the allegations in Paragraph 111 of the Complaint.

AS TO “COUNT I
GENDER DISCRIMINATION AND SEXUAL HARASSMENT – NYSHRL
(Against Entity Defendants, Defendant Finley, Defendant Rauchet,
and Defendant Mekeel)”

112. Fox News incorporates by reference and restates its responses to the allegations set forth in the foregoing Paragraphs as if fully set forth herein.

113. Fox News admits that New York Executive Law § 296(1)(a) contains the language stated in Paragraph 113 of the Complaint and denies that Plaintiff is entitled to relief thereunder or any relief whatsoever. Fox News denies any remaining allegations in Paragraph 113.

114. Fox News admits that Plaintiff is a woman. The remaining allegations in Paragraph 114 of the Complaint state legal conclusions to which no response is required. To the extent a response is required, Fox News denies any remaining allegations in Paragraph 114.

115. Fox News denies the allegations in Paragraph 115 of the Complaint.

116. Fox News denies the allegations in Paragraph 116 of the Complaint.

117. Fox News denies the allegations in Paragraph 117 of the Complaint.

118. Fox News denies the allegations in Paragraph 118 of the Complaint.

119. Fox News denies the allegations in Paragraph 119 of the Complaint.

120. Fox News denies the allegations in Paragraph 120 of the Complaint.

121. Fox News denies the allegations in Paragraph 121 of the Complaint.

122. Fox News denies the allegations in Paragraph 122 of the Complaint.

123. Fox News denies the allegations in Paragraph 123 of the Complaint.

124. Fox News denies the allegations in Paragraph 124 of the Complaint.

125. Fox News denies the allegations in Paragraph 125 of the Complaint.

126. Fox News denies the allegations in Paragraph 126 of the Complaint.

AS TO “COUNT II
Gender Discrimination and Sexual harassment – NYCHRL
(Against All Defendants)”

127. Fox News incorporates by reference and restates its responses to the allegations set forth in the foregoing Paragraphs as if fully set forth herein.

128. Fox News admits that New York City Administrative Code § 8-107 contains the language stated in Paragraph 128 of the Complaint, except the “t” in “to” after “gender” is capitalized, there is a semicolon after the first “person,” there is a “(3)” before “to discriminate,” and the “t” in “to” before “discriminate” is capitalized, and denies that Plaintiff is entitled to relief thereunder or any relief whatsoever. Fox News denies any remaining allegations in Paragraph 128.

129. Fox News admits that Plaintiff is a woman. The remaining allegations in Paragraph 129 of the Complaint state legal conclusions to which no response is required. To the extent a response is required, Fox News denies the remaining allegations in Paragraph 129.

130. Fox News denies the allegations in Paragraph 130 of the Complaint.

131. Fox News denies the allegations in Paragraph 131 of the Complaint.

132. Fox News denies the allegations in Paragraph 132 of the Complaint.

133. Fox News denies the allegations in Paragraph 133 of the Complaint.

134. Fox News denies the allegations in Paragraph 134 of the Complaint.

135. Fox News denies the allegations in Paragraph 135 of the Complaint.

136. Fox News denies the allegations in Paragraph 136 of the Complaint.

137. Fox News denies the allegations in Paragraph 137 of the Complaint.

138. Fox News denies the allegations in Paragraph 138 of the Complaint.

139. Fox News denies the allegations in Paragraph 139 of the Complaint.

140. Fox News denies the allegations in Paragraph 140 of the Complaint.

141. Fox News denies the allegations in Paragraph 141 of the Complaint.

142. Fox News denies the allegations in Paragraph 142 of the Complaint.

AS TO “COUNT III
Retaliation – NYCHRL
(Against Defendants)”

143. Fox News incorporates by reference and restates its responses to the allegations set forth in the foregoing Paragraphs as if fully set forth herein.

144. Fox News admits that New York City Administrative Code § 8-107(7) contains the language stated in Paragraph 144 of the Complaint and denies that Plaintiff is entitled to relief thereunder or any relief whatsoever. Fox News denies any remaining allegations in Paragraph 144.

145. Fox News denies the allegations in Paragraph 145 of the Complaint.

146. Fox News denies the allegations in Paragraph 146 of the Complaint.

147. Fox News denies the allegations in Paragraph 147 of the Complaint.

148. Fox News denies the allegations in Paragraph 148 of the Complaint.

149. Fox News denies the allegations in Paragraph 149 of the Complaint.

150. Fox News denies the allegations in Paragraph 150 of the Complaint.

151. Fox News denies the allegations in Paragraph 151 of the Complaint.

152. Fox News denies the allegations in Paragraph 152 of the Complaint.

153. Fox News denies the allegations in Paragraph 153 of the Complaint.

AS TO “COUNT IV
Retaliation – NYSHRL
(Against Entity Defendants, Defendant Finley, Defendant Mekeel,
and Defendant Rauchet)”

154. Fox News incorporates by reference and restates its responses to the allegations set forth in the foregoing Paragraphs as if fully set forth herein.

155. Fox News admits that New York Executive Law § 296(7) contains the language stated in Paragraph 155 of the Complaint, except it should state “section” not “chapter,” “practices” not “practice,” and should not state “person” after “he or she,” and denies that Plaintiff is entitled to relief thereunder or any relief whatsoever. Fox News denies any remaining allegations in Paragraph 155.

156. Fox News denies the allegations in Paragraph 156 of the Complaint.

157. Fox News denies the allegations in Paragraph 157 of the Complaint.

158. Fox News denies the allegations in Paragraph 158 of the Complaint.

159. Fox News denies the allegations in Paragraph 159 of the Complaint.

160. Fox News denies the allegations in Paragraph 160 of the Complaint.

161. Fox News denies the allegations in Paragraph 161 of the Complaint.

162. Fox News denies the allegations in Paragraph 162 of the Complaint.

163. Fox News denies the allegations in Paragraph 163 of the Complaint.

AS TO “COUNT V
Aiding and Abetting Gender Discrimination and Retaliation – NYCHRL
(Against All Defendants)”

164. Fox News incorporates by reference and restates its responses to the allegations set forth in the foregoing Paragraphs as if fully set forth herein.

165. Fox News admits that New York City Administrative Code § 8-107(6) contains the language stated in Paragraph 165 of the Complaint, except it should state “chapter” not “article,” and denies that Plaintiff is entitled to relief thereunder or any relief whatsoever. Fox News denies any remaining allegations in Paragraph 165.

166. Fox News denies the allegations in Paragraph 166 of the Complaint.

167. Fox News denies the allegations in Paragraph 167 of the Complaint.

168. Fox News denies the allegations in Paragraph 168 of the Complaint.

169. Fox News denies the allegations in Paragraph 169 of the Complaint.

170. Fox News denies the allegations in Paragraph 170 of the Complaint.

171. Fox News denies the allegations in Paragraph 171 of the Complaint.

172. Fox News denies the allegations in Paragraph 172 of the Complaint.

173. Fox News denies the allegations in Paragraph 173 of the Complaint.

174. Fox News denies the allegations in Paragraph 174 of the Complaint.

175. Fox News denies the allegations in Paragraph 175 of the Complaint.

AS TO “COUNT VI
Aiding and Abetting Sexual Harassment, Gender Discrimination, and
Retaliation – NYSHRL
(Against All Defendants)”

176. Fox News incorporates by reference and restates its responses to the allegations set forth in the foregoing Paragraphs as if fully set forth herein.

177. Fox News admits that New York Executive Law § 296(6) contains the language stated in Paragraph 177 of the Complaint and denies that Plaintiff is entitled to relief thereunder or any relief whatsoever. Fox News denies any remaining allegations in Paragraph 177.

178. Fox News denies the allegations in Paragraph 178 of the Complaint.

179. Fox News denies the allegations in Paragraph 179 of the Complaint.

180. Fox News denies the allegations in Paragraph 180 of the Complaint.

181. Fox News denies the allegations in Paragraph 181 of the Complaint.

182. Fox News denies the allegations in Paragraph 182 of the Complaint.

183. Fox News denies the allegations in Paragraph 183 of the Complaint.

184. Fox News denies the allegations in Paragraph 184 of the Complaint.

185. Fox News denies the allegations in Paragraph 185 of the Complaint.

186. Fox News denies the allegations in Paragraph 186 of the Complaint.

187. Fox News denies the allegations in Paragraph 187 of the Complaint.

AS TO “COUNT VII
Intentional Infliction of Emotional Distress
(Against Defendant [Tyrus])”

188. Fox News incorporates by reference and restates its responses to the allegations set forth in the foregoing Paragraphs as if fully set forth herein.

189. Fox News denies the allegations in Paragraph 189 of the Complaint.

190. Fox News denies the allegations in Paragraph 190 of the Complaint.

191. Fox News denies the allegations in Paragraph 191 of the Complaint.

192. Fox News denies the allegations in Paragraph 192 of the Complaint.

193. Fox News denies the allegations in Paragraph 193 of the Complaint.

194. Fox News denies the allegations in Paragraph 194 of the Complaint.

195. Fox News denies the allegations in Paragraph 195 of the Complaint.

AS TO “PRAYER FOR RELIEF”

Fox News denies that Plaintiff is entitled to the relief requested in the *Prayer for Relief* section of the Complaint or to any relief whatsoever. Fox News denies each and every allegation in the *Prayer for Relief* section, including in the “Wherefore Clause” and in Paragraphs A through D thereunder.

Fox News denies each and every allegation in the Complaint that it does not specifically admit in this Answer.

VI. AS TO “DEMAND FOR JURY TRIAL”

Fox News states that whether Plaintiff’s claims entitle her to a trial by jury constitutes a legal determination that is not subject to admission or denial.

DEFENSES

FIRST DEFENSE

Plaintiff fails, in whole or in part, to state claims upon which relief can be granted.

SECOND DEFENSE

Plaintiff's claims are barred, in whole or in part, to the extent that her requested relief is not available under the statutes pursuant to which she seeks relief.

THIRD DEFENSE

Plaintiff's claims are barred, in whole or in part, by the election of remedies doctrine.

FOURTH DEFENSE

Plaintiff's claims are barred, in whole or in part, to the extent that she failed to timely and/or substantively satisfy any administrative prerequisites or exhaust available administrative remedies.

FIFTH DEFENSE

Fox News had legitimate, non-discriminatory business reasons for any actions taken with respect to Plaintiff, and these reasons were not pretextual.

SIXTH DEFENSE

Plaintiff's claims are barred, in whole or in part, because she is not entitled to the protections provided under the statutes pursuant to which she seeks relief, including but not limited to the New York State Human Rights Law and New York City Human Rights Law.

SEVENTH DEFENSE

Plaintiff's claims are barred, in whole or in part, because any allegedly adverse action was based on one or more reasonable factors other than sex or retaliation.

EIGHTH DEFENSE

Plaintiff's claims for damages are barred, in whole or in part, because she failed to demonstrate any entitlement to damages. To the extent that Plaintiff can demonstrate any entitlement to damages, which Fox News expressly denies, she has failed to mitigate or minimize her alleged damages.

NINTH DEFENSE

Fox News is entitled to a set-off credit against Plaintiff's damages, if any, for any such amounts she received from any source whatsoever.

TENTH DEFENSE

All actions taken by Fox News with respect to Plaintiff would have taken place notwithstanding Plaintiff's sex or complaint.

ELEVENTH DEFENSE

Fox News at all material times had suitable anti-discrimination, anti-harassment, and anti-retaliation policies in place, which set forth the procedure to be followed if an employee believes he or she has been harassed, discriminated, or retaliated against, and exercised reasonable care to prevent and correct all discrimination, harassment, and/or retaliation.

TWELFTH DEFENSE

Plaintiff's claims are barred, or should be reduced, to the extent she failed to avoid harm that could have been avoided with reasonable effort. Plaintiff's claims are barred because she unreasonably failed to take advantage of preventative and corrective opportunities provided by Fox News, including those opportunities set forth in its anti-discrimination, anti-harassment, and anti-retaliation policies.

THIRTEENTH DEFENSE

Plaintiff's claims are barred to the extent she failed to exhaust internal remedies.

FOURTEENTH DEFENSE

Plaintiff's allegations do not rise to an actionable level.

FIFTEENTH DEFENSE

Fox News is not responsible for any conduct of its employees, agents, or contractors taken outside the scope of their responsibility.

SIXTEENTH DEFENSE

Fox News is not liable to the extent that it did not know of, or should not have known of, any alleged conduct and, in any event, took reasonably prompt corrective action.

SEVENTEENTH DEFENSE

Some or all of Plaintiff's alleged damages are speculative, inappropriate under the facts of this action, and/or unavailable as a matter of law.

EIGHTEENTH DEFENSE

Fox News did not engage in willful or intentional conduct, nor did Fox News engage in any practice with malice or reckless indifference to the rights of Plaintiff.

NINETEENTH DEFENSE

Plaintiff is not entitled to recover punitive or liquidated damages in this action. Any award of punitive or liquidated damages against Fox News in this action would be barred to the extent that it violates the due process and equal protection provisions of the United States and New York State Constitutions.

TWENTIETH DEFENSE

Some or all of Plaintiff's claims are barred by laches.

TWENTY-FIRST DEFENSE

Some or all of Plaintiff's claims for relief are barred because of unclean hands.

TWENTY-SECOND DEFENSE

Plaintiff's claims fail, in whole or in part, to the extent barred by the applicable statutes of limitations.

TWENTY-THIRD DEFENSE

Defendants John Finley, Monica Mekeel, Jen Rauchet and Fox Corporation are not proper parties to this suit.

* * *

Fox News reserves the right to seek leave of Court to assert additional defenses as they may come to light during the course of investigation, discovery, or otherwise.

WHEREFORE, Fox News demands judgment in its favor, along with an award of costs, attorneys' fees, and any other relief the Court deems appropriate.

Dated: March 9, 2020
New York, New York

Respectfully submitted,

JONES DAY

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